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## SENATE BILL No. 92

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-8-8; IC 11-13-3-4; IC 35-38-2-2.2; IC 35-50-5-5.

**Synopsis:** Sex offenders and the Internet. Requires a sex offender, as a condition of parole, a condition of probation, or as part of the sex offender's sentence, to permit: (1) the search of the person's personal computer at any time; and (2) the installation on the person's personal computer or device with Internet capability, at the person's expense, of one or more hardware or software systems to monitor Internet usage. Provides that the search of the computer must be conducted in a manner that interferes as little as practicable with the legitimate use of the computer, while still allowing a reliable determination of whether the person has committed a crime or violated a condition of probation or parole. Provides that a person who knowingly or intentionally refuses to permit a search of the person's computer or the installation of a monitoring device on the person's computer imposed as a part of the person's sentence may be found to be in indirect contempt of court.

**Effective:** July 1, 2009.

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### Young R Michael

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January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 92

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 11-8-8-8, AS AMENDED BY P.L.119-2008,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 8. ~~(a)~~ The registration required under this chapter  
4 must include the following information:

5 (1) The sex or violent offender's full name, alias, any name by  
6 which the sex or violent offender was previously known, date of  
7 birth, sex, race, height, weight, hair color, eye color, any scars,  
8 marks, or tattoos, Social Security number, driver's license number  
9 or state identification card number, vehicle description and  
10 vehicle plate number for any vehicle the sex or violent offender  
11 owns or operates on a regular basis, principal residence address,  
12 other address where the sex or violent offender spends more than  
13 seven (7) nights in a fourteen (14) day period, and mailing  
14 address, if different from the sex or violent offender's principal  
15 residence address.

16 (2) A description of the offense for which the sex or violent  
17 offender was convicted, the date of conviction, the county of the



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conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex or violent offender's employers in Indiana, the name and address of each campus or location where the sex or violent offender is enrolled in school in Indiana, and the address where the sex or violent offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex or violent offender.

(5) If the sex or violent offender is a sexually violent predator, that the sex or violent offender is a sexually violent predator.

(6) If the sex or violent offender is required to register for life, that the sex or violent offender is required to register for life.

(7) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use.

(8) Any other information required by the department.

(b) If the sex or violent offender registers any information under subsection (a)(7); the offender shall sign a consent form authorizing the:

(1) search of the sex or violent offender's personal computer or device with Internet capability; at any time; and

(2) installation on the sex or violent offender's personal computer or device with Internet capability; at the sex or violent offender's expense; of hardware or software to monitor the sex or violent offender's Internet usage.

SECTION 2. IC 11-13-3-4, AS AMENDED BY P.L.46-2008, SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's

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supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law

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enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

~~and~~

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

~~(E) require a parolee who is a sex offender to consent:~~

~~(i) to the search of the sex offender's personal computer at any time; and~~

~~(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and~~

~~(F)~~ (E) prohibit the sex offender from:

~~(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and~~

~~(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).~~

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator

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under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

*(l) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.*

**(m) As a condition of parole, the parole board shall require a person who is a sex offender to permit:**

**(1) the search of the person's personal computer at any time; and**

**(2) the installation on the person's personal computer or device with Internet capability, at the person's expense, of one (1) or more hardware or software systems to monitor Internet usage.**

**A search of the person's computer under this subsection shall be conducted in a manner that interferes as little as practicable with the person's legitimate use of the computer, while still allowing a reliable determination of whether the person has violated a condition of parole.**

SECTION 3. IC 35-38-2-2.2, AS AMENDED BY P.L.119-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.2. **(a)** As a condition of probation for a sex offender (as defined in IC 11-8-8-4.5), the court shall:

(1) require the sex offender to register with the local law enforcement authority under IC 11-8-8;

(2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7), as measured from the property line of the sex offender's residence to the property line of the school property, for the period of probation, unless the sex offender obtains written approval from the court;

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(3) require the sex offender to consent:

(A) to the search of the sex offender's personal computer at any time; and

(B) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(4) prohibit the sex offender from:

(A) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(B) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by clause (A).

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.

**(b) A search of a sex offender's computer under subsection (a)(3) shall be conducted in a manner that interferes as little as practicable with the sex offender's legitimate use of the computer, while still allowing a reliable determination of whether the sex offender has violated a condition of probation.**

SECTION 4. IC 35-50-5-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) This section applies only to a person convicted of a sex offense (as defined in IC 11-8-8-5.2).**

**(b) This section does not apply if a person convicted of a sex offense is no longer required to register as a sex offender.**

**(c) In addition to any penalty imposed under this article for a felony or a misdemeanor, a person convicted of a sex offense shall permit:**

**(1) the search of the person's personal computer at any time; and**

**(2) the installation on the person's personal computer or device with Internet capability, at the person's expense, of one (1) or more hardware or software systems to monitor Internet usage.**

**A search of the person's computer under this subsection shall be conducted in a manner that interferes as little as practicable with**

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1 the person's legitimate use of the computer, while still allowing a  
2 reliable determination of whether the person has committed a  
3 crime.  
4 (d) A person to whom this section applies who knowingly or  
5 intentionally refuses to permit the search of the person's personal  
6 computer or the installation on the person's personal computer or  
7 device with Internet capability, at the person's expense, of one (1)  
8 or more hardware or software systems to monitor Internet usage  
9 may be punished for an indirect contempt of the sentencing court  
10 under IC 34-47-3.

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